

REMARKS

After entry of the present Amendment, claims 1, 4-11, 16-18, 26, 28, 30-33, 37, 39, 40, 45, 47-56 and 58-75 remain pending in the application. In the December 18, 2002, Office Action, the Examiner objected to claims 30, 31, 45, 49, 50, 51, 53, 54 and 57, and rejected claims 1, 4-11, 16-18, 26, 28, 32, 33, 37, 39, 40, 47, 48, 52, 55, 56 and 58-72. Applicants have amended claims amend claims 49, 51, 53 and 56, canceled claim 57, and presented new claims 73-75 for consideration. Applicants respectfully request reexamination and reconsideration.

Allowable Subject Matter

The Office Action objected to claims 30, 31, 45, 49, 50, 51, 53, 54 and 57 as being dependent upon a rejected base claim, but stated the claims would be allowable if rewritten in independent form including the limitations of the base claim and any intervening claims. Applicants have amended several claims and added new claims to rewrite all of the above claims in independent form as follows:

<u>New Claim Number</u>	<u>Original Claim(s)</u>
Claim 73	Claims 30 + 26
Claim 74	Claims 31 + 26
Claim 75	Claims 45 + 37
Claim 49	Claims 49 +1
Claim 50	Unchanged (now depends from allowable claim 49)
Claim 51	Amended to depend from claim 49
Claim 53	Claims 53 + 57
Claim 54	Unchanged (now depends from allowable claim 53)
Claim 56	Claims 57 + 56 (claim 57 canceled)

Having rewritten the above claims in independent form including the limitations of the base claim and any intervening claims, as recommended by the Examiner, Applicants respectfully submit that claims 49-51, 53, 54, 56 and 73-75 are in condition for allowance.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1, 4-11, 16-18, 26, 28, 32, 33, 37, 39, 40, 47, 48, 52, 55, 56, 58-68 and 69-72 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,853,005, issued to Scanlon et al. on December 29, 1998 (hereinafter "Scanlon"), in view of U.S. Patent No. 5,620,003, issued to Sepponen on April 15, 1997 (hereinafter "Sepponen"). Applicants respectfully traverse this rejection.

Of the claims rejected on the above-described grounds, claims 1, 26, 37, 56, 64 and 69 are independent claims. As discussed above, claim 56 has been rewritten as suggested by the Examiner, to include the limitations of claim 57, and is thus in condition for allowance. Applicants' independent claim 1, recites, "An apparatus for passively monitoring physiology of a patient, the apparatus comprising: at least two sensors, each comprising a piezoelectric film, for sensing physiological signals from the patient and environmental noise from an environment around the patient, wherein at least one sensor is disposed along a patient supporting surface for coupling with the patient so as to sense the physiological signals and at least one sensor comprises an environmental sensor for sensing the environmental noise external to the patient; a converter communicating with the at least two sensors for converting the physiological signals and environmental noise into digital signals; a processor communicating with the converter for isolating physiological digital signals from the digital signals by comparing the digital signals between the at least two sensors to provide physiological data; and a monitor communicating with the processor for displaying the physiological data in real-time." Without setting forth all of the independent claims, the rejections based on 35 U.S.C. § 103(a) will be discussed.

Scanlon generally describes an acoustic monitoring system including a fluid-filled sensor pad 12 having an acoustic transducer 14. Some embodiments include a microphone 81, separate from the sensor pad, for detecting airborne sounds. Scanlon discloses and describes only a fluid-filled, acoustic sensor. Nowhere does Scanlon teach or suggest using

piezoelectric sensors to sense physiological signals from a patient and environmental noise from an environment around the patient.

Sepponen generally describes a scale, called a "measuring support S," which measures differences in a person's weight and from those changes derives a heart rate. The measuring support may include a piezoelectric sensor. Neither Scanlon nor Sepponen contain any suggestion or motivation to combine the references as proposed by the Examiner. Applicants submit that it would not have been obvious to combine a scale with a fluid-filled pad. And even if the fluid-filled sensor of Scanlon were combined with the scale of Sepponen, however, Applicants submit that their invention as described in claim 1 and the other independent and dependent claims would not have been achieved, due to their use of at least two piezoelectric sensors to sense physiological and/or environmental signals.

Claims 1, 4-11, 16-18, 26, 28, 32, 33, 37, 39, 40, 47, 48, 52, 55, 56, 58, 61-67 and 69-71 also stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Scanlon in view of Sepponen and further in view of U.S. Patent No. 6,068,589, issued to Neukermans on May 30, 2000 (hereinafter "Neukermans"). Applicants respectfully traverse this rejection.

Neukermans generally describes a hearing aid 10 including a microphone 28. As discussed above, none of the references suggest combining Scanlon and Sepponen, and such combination would not have been obvious. Similarly, Neukermans contains no suggestion or motivation to combine with either Scanlon or Sepponen. There is no reason to believe that it would have been obvious for one skilled in the art of fluid-filled sensor pads to look to the hearing aid of Neukermans. Even if all three references were combined, however, Applicants' invention would not be achieved, for the same reasons set forth above.

For the foregoing reasons, Applicants respectfully submit that all rejections of claims 1, 4-11, 16-18, 26, 28, 32, 33, 37, 39, 40, 47, 48, 52, 55, 56, 58-68 and 69-72 based on 35 U.S.C. § 103(a) be withdrawn.

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PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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